



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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May 20, 2013

Ref: 8ENF-L

Mr. Bill Rees
Voluntary Cleanup Program
Utah Department of Environmental Quality
Division of Environmental Response and Remediation
P.O. Box 144840
Salt Lake City, Utah 84114

RE: Sundborn, LLC and Forestdale Investments,
LLC VCUP Agreement Richardson Flat Site,
Summit County, Utah

Dear Mr. Reese:

This follows our conversations regarding the voluntary cleanup agreement between the Utah Department of Environmental Quality (UDEQ) and Sundborn, LLC and Forestdale Investments, LLC (Property Owners) regarding property adjacent to the Park City Business Center, 4006 through 4665 North Forestdale Drive, Park City, Summit County, Utah (Property). Portions of the Property are contaminated with heavy metals including lead, arsenic, zinc and cadmium resulting from historic mining operations in the Park City Mining District. The Property is included within the Lower Silver Creek Soils Temporary Overlay Zone established pursuant to Summit County Ordinance No. 692, which requires remediation of impacted areas approved by the UDEQ and the EPA prior to any development. In addition, the Property is now included within operable unit 2 of the Richardson Flat Superfund Site and is the subject of an investigation to determine the nature and extent of contamination along the 4.5 mile stretch of Lower Silver Creek and future cleanup pursuant to the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. 9601 *et. seq.* (CERCLA).

The Property Owners have submitted a cleanup plan to UDEQ pursuant to the VCUP program. The Property Owners propose to remove tailings piles located within an area of the Property designated as permanent open space to an off-site disposal facility. These tailings are located in impacted flood plain areas within Lower Silver Creek and subject to the CERCLA investigation.

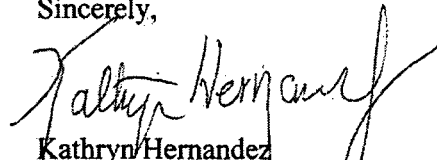
The EPA provides the following comments with respect to the Property Owner's VCUP proposal:

- The plan to address tailings located within the flood plain area of Lower Silver Creek is problematic. This proposal involves only a partial cleanup of flood plain tailings and may be inconsistent with future cleanup activities pursuant to CERCLA and should not be approved.

- If, however, the Property Owners propose to address specific releases of hazardous substances from discrete areas not within the Lower Silver Creek flood plain, the EPA would not object. Under such a scenario, the Property Owners should be advised that such plan does not address all releases of hazardous substances at and from the Property and that the Property is subject to further investigation and response actions pursuant to CERCLA.
- UDEQ's issuance of a Certificate of Completion should include notification to the Property Owners that their participation in the VCUP program does not provide any protection from liability under any federal law including CERCLA.

We appreciate the opportunity to work with you on this matter. If you would like to discuss this matter further, please call me at (303) 312-6101. Any legal questions should be directed to Andrea Madigan, the attorney for the Richardson Flat Site, at (303) 312-6904.

Sincerely,


Kathryn Hernandez
Remedial Project Manager

cc: Andrea Madigan



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